The Washington LEGAL CLINIC for the Homeless
A Voice for Housing and Justice

Testimony before the Comprehensive Housing Strategy Task Force
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Good evening and thank you for this opportunity to testify. My name is Misty Thomas and I am a Staff Attorney with the Affordable Housing Initiative at the Washington Legal Clinic for the Homeless. For the past 25 years, the Washington Legal Clinic for the Homeless has advocated for people who are homeless or at risk of becoming homeless in the District of Columbia, through a unique combination of direct representation, impact litigation, policy and budget advocacy, community outreach, education and organizing. Our Affordable Housing Initiative promotes the expansion and preservation of affordable housing in the District. Every day I work with tenants who are searching for affordable housing and tenant associations striving to protect their existing affordable housing.

At the Task Force's hearing in October my colleague and I – as well as dozens of other advocates and D.C. residents – sought to set the stage regarding the scope of the crisis in D.C. and lay out which particular sectors and goals this Task Force should keep in the forefront as it prepares its recommendations. I encouraged you to prioritize housing that helps D.C. residents making at or below 30% of the Area Median Income (AMI) and to not simply believe that those families' homelessness or housing woes will be solved by longer-term job initiatives.

Without a doubt, there are many ways to tackle the problem of inadequate affordable housing stock in D.C. for low and extremely low income residents and this afternoon I'd like to briefly highlight five specific suggestions for Task Force recommendations that I believe would greatly strengthen the preservation and production of affordable housing in the District.

1. **Establish a unified and pro-active "Preservation Strategy" for the City designed to sustain and increase our stock of affordable housing units.**

The Task Force should ask the Mayor to set clear annual goals for preserving existing affordable housing and establish a collaborative, inter-agency response protocol for when affordable housing is threatened in the District. To do this, the City's "Preservation Strategy" should: 1) include a plan for the collection and publication of reliable annual data about the scope of the need for housing in D.C. and a detailed picture of the current housing stock; 2) set a policy regarding the types of properties and affordability protections the District will prioritize preserving and maintaining – whether that be federally subsidized rental properties, locally funded vouchers, tax credit properties, bond deals, Inclusionary Zoning units, or, ideally, all of the above; 3) set benchmarks for the number of "hard stock" affordable housing units the City wants to create in a given year, 4) set benchmarks for the type and number of affordable units the City is committed to maintaining, despite market pressures or ends of subsidy terms; and 5) establish an ongoing, multi-agency (i.e. DHCD, DCHA, DCHFA) and stakeholder (i.e. DMPED, tenants, advocates, developers) committee to monitor the prioritized properties and create protocols and/or consolidated funding schemes, so that they will be poised and empowered to act collaboratively when properties in the District are threatened.

Had such a collaborative Preservation Strategy been in place last year, a Low Income Housing Tax Credit property that I work with in Ward 7 would have likely been preserved. Had DCHFA, who issued the bonds on the property, had a mandate from the Mayor about the value of preserving tax credit properties *and* a rapid response team within other City agencies, it may have been able to avoid a foreclosure sale of the property after the owner defaulted. Had there been other agencies and stakeholders mobilized early, when the recalcitrant owner first started failing to pay back their loan, there would have been time to set up an alternative disposition, like a competitive RFB process that required preservation of affordability or something to facilitate acquisition by an affordability-minded developer with from DCHFA or DHCD or a private source. This would have kept the apartments affordable for at least 18 more years, as would have been if not for the foreclosure. Without a doubt this was a loss of affordable housing stock that could be avoided in the future if there is an overt, thoughtful plan to set priorities and coordinate efforts between District agencies when there are threats to the dwindling affordable housing stock.

2. **Ensure meaningful and stable annual funding for the Housing Production Trust Fund.**

I can tell you that in working with low income D.C. tenants who are living in terrible conditions day-to-day, who are seeking some leverage in negotiating with potential purchasers of their buildings, who are hoping that a non-profit developer will be interested in partnering with them in renovating or buying their building, or who want to stay in their neighborhoods and communities, but nevertheless move up and become homeowners themselves, it is beyond clear that robust funding of the Trust Fund is absolutely crucial. That Fund is a powerful addition to the tools in my belt when I am helping tenants utilize their TOPA rights or identify partners to help them improve deplorable physical conditions in their homes.

We ask the Task Force to recommend that the City commit to re-establishing an annual funding floor for the Trust Fund of at least $25 million starting in FY14 that will be filled with money from the General Fund if dedicated sources do not meet the target level. Although this is an increase from the most recent years, it is necessary to respond to D.C.'s increased affordable housing need, of which you are well aware. Without more dedicated and stable funds, the power and promise of the Trust Fund will be hollow.

To that end, we also support an increase of the percentage of the deed recordation tax that is currently dedicated to the Trust Fund. With just an increase of 2-3% the District could add between $7 and 9 million to the Fund. Finally, the City must stop gutting the Fund for other purposes. Money for the crucial Local Rent Supplement Program must be found elsewhere in the budget so that Tenant Purchase, renovation, and other Trust Fund activities can truly flourish. Indeed, with greater production tools for deeply affordable housing, the need for vouchers would diminish over the long term. But, in the meantime, continuing to pit these two different but equally important housing efforts against each other is simply wrong and doesn't improve the state of affairs in our city.

3. **Leverage the value of city-owned and vacant land to produce housing at or below 30% AMI.**

In looking for creative options to produce additional "hard stock" affordable housing units in D.C. without a significant fiscal impact, the Task Force should recommend a policy requiring the production of deeply affordable housing anytime the City disposes of property it owns or controls. Currently, the City has several hundred acres of land that could be redeveloped as housing or mixed use development through public-private partnerships. However, to most effectively leverage the value of these parcels for the good of all of our citizens and our City's economy, there must be a clear policy on these proposed projects and a commitment to establishing the addition of affordable housing as the highest priority when issuing RFPs and assessing any development proposals.

As you likely know, public land can be sold to developers at a deeply discounted rate in exchange for the set-aside production of affordable units because the City can effectively eliminate the underlying land cost, which is often cited as the reason that a developer can't produce deeply affordable units and sustain the property. If the value of the land is leveraged well, and developers compete for the property, the evidence shows that it is possible to produce a valuable percentage of the new units for 30 % AMI or lower households, without the need for other layered government subsidies. Additionally, when setting the terms of these proposals, the City has the power to set the length of the covenants requiring affordability and we believe the Task Force should recommend that they be lengthy – at least 30 years or more.

As there is a lot of value to be leveraged in our small-in-area, but large-in-desirability City land, we would be missing a great opportunity if we do not better utilize this asset to produce deeply affordable housing. But please also note that it is crucial that the City continue to watchdog these development projects even after a bid process is complete and the developer is getting financing and starting construction, as we already have prior examples of back door dealing or special legislation to allow developers to claim unfeasibility late in the game and wiggle out of their affordability promises to the District. This cannot be allowed to happen and there must be good oversight and transparency on each of these City-owned land dispositions. We encourage the Task Force to closely read and adopt the recommendations in the Coalition for Smarter Growth's October 2012 report "Public Land for Public Good," which gives a great deal more detail on this topic.

4. **Encourage the exploration of the feasibility of creating local Affordable Housing Tax Credits to create 30% AMI or lower units in D.C.**

Another potential way to produce affordable units for extremely low income residents without having a direct budgetary impact is to create local, D.C-specific tax credits that go deeper than the federal Low Income Housing Tax Credit program. The federal program – which I believe could be effectively mirrored on the local level – gives incentives for the utilization of private equity in the development of affordable housing by allowing a taxpayer (usually the partners of a partnership that owns the housing) to take a federal tax credit equal to a large percentage of the cost incurred for development of the low-income units in a rental housing project at either 50 or 60% of AMI. Often, a tax credit is more attractive than a tax deduction, as it provides a dollar-for-dollar reduction in a company's income tax, whereas a tax deduction only provides a reduction in taxable income. During the recession these last few years this program has become one of – if not the – most significant affordable housing production tools.

On a much smaller scale, the District could offer tax credits to developers – either standing alone or to be layered on top of a federal tax credit or subsidy – for producing deeply affordable units. We recommend that the Task Force explore the viability of establishing a D.C. tax credit program focused on the production of units at 30% or below AMI. I think this could be a good pilot project for the City – even if it isn't utilized by many developers, there is no budgetary harm to the City for trying something innovative. Alternatively, if it is used, we have just successfully added to the hard stock of units with long-term affordability covenants. Those recorded covenants are much easier to track and enforce by us lawyers than the current standards set by the Inclusionary Zoning program, for example.

5. **Support reasonable "Rent Control" reforms that would include more units and limit landlords' ability to rapidly raise rents to unaffordable levels**

Finally, I encourage the Task Force to also consider reforms to our Rent Stabilization – or commonly known as Rent Control – laws in order to increase the stability of housing costs for many D.C. tenants. I have many clients who live in rent controlled properties and have been able to keep their rent reasonable and predictable because they've stayed in their units for a very long time. I have other clients would be subject to rent control restrictions if the subsidy or affordability covenants on their property ever end. Although not the deepest of affordability protections, rent control is meaningful in D.C. In order to make it a more powerful tool, however, we recommend 1) decreasing the buildings that are exempt by starting to include buildings that have been built after 1975 – perhaps moving that up to a date in the 1980s and then continue to move it as time passes; 2) limit landlords' ability to receive unfair hardship rent increases by lowering the guaranteed rate of return on their investment from 12% to a more fluid, market sensitive standard that mirrors the state of the economy more fairly (i.e. 5% plus CPI or another measure like the published "rate of return" for distributing utilities in D.C.). In this economy, it is unfair for landlords to be assured this strong an investment while no one else – especially low and moderate income tenants – are making that kind of increase in income each year. And finally, 3) consider reforms on the abused and misused Voluntary Agreement process that is effectively pushing out long-term, limited income tenants in favor of these new, wealthier D.C. residents.

Thank you for your time and attention to these proposals.